

Arizona Fraud Statutes (Enacted April 29, 1997)

20-441. Purpose of article; definition

A. Among the purposes of this article is the regulation of trade practices in the business of insurance in accordance with the intent of Congress as expressed in the act of Congress of March 9, 1945, 59 Stat. 33, by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

B. For the purposes of this article, “insurance company” or “insurer” means any stock, mutual, reciprocal, benefit, benefit stock or title insurer, or fraternal benefit society, health care services organization, or hospital, medical, dental and optometric service corporation, or prepaid dental plan organization, mechanical reimbursement reinsurer, prepaid legal plan, Lloyd’s association, service company as defined in this title or any other entity under this title.

20-463. Fraud; injunction; penalties; restitution; definitions.

A. It is a fraudulent practice and unlawful for a person to knowingly:

1. Present, cause to be presented or prepare with the knowledge or belief that it will be presented an oral or written statement, including computer generated documents, to or by an insurer, reinsurer, purported insurer or reinsurer, broker or agent of an insurer, reinsurer or broker that contains untrue statements of material fact or that fails to state any material fact with respect to any of the following:

- (a) An application for the issuance or renewal of an insurance policy.
- (b) The rating of an insurance policy.
- (c) A claim for payment or benefit pursuant to an insurance policy.
- (d) Premiums paid on any insurance policy.
- (e) Payments made pursuant to the terms of any insurance policy.
- (f) An application for a certificate of authority.
- (g) The financial condition of an insurer, reinsurer or purported insurer or reinsurer.
- (h) The acquisition of an insurer or reinsurer or the concealing of any information concerning any fact material to the acquisition.

2. Solicit or accept new or renewal insurance risks by or for any insolvent insurer, reinsurer or any other entity licensed to transact insurance business in this state.

3. Conceal or attempt to conceal from the department or remove or attempt to remove from the home office, place of safekeeping or other place of business of any insurer, reinsurer or other entity licensed to transact insurance business in this state part or all of the assets or records of the assets, transactions and affairs.

4. Divert or attempt to conspire to divert the monies of an insurer, reinsurer, entity licensed to transact insurance business in this state or other person in connection with:

- (a) The transaction of insurance or reinsurance.

- (b) The conduct of business activities by any insurer, reinsurer or other entity licensed to transact insurance business in this state.
- (c) The formation, acquisition or dissolution of any insurer, reinsurer or other entity licensed to transact insurance business in this state.
- 5. Assist, abet, solicit or conspire with another person to violate paragraph 1 of this subsection.
- 6. Employ, use or act as a runner, capper or steerer for the purposes of violating paragraph 1 of this subsection.
- B. A person who acts without malice, fraudulent intent or bad faith is not subject to liability for filing reports or furnishing orally or in writing other information concerning suspected, anticipated or completed fraudulent insurance acts if the reports or information is provided to or received from:
 - 1. The director or the department.
 - 2. Law enforcement officials and their agents and employees.
 - 3. The national association of insurance commissioners, other state insurance departments, a federal or state agency or bureau established to detect and prevent fraudulent insurance acts, and the agency's or bureau's agents, employees or designees, or an organization established by insurers to assist in the detection and prevention of fraudulent insurance acts, and the organization's agents, employees or designees.
- C. A person, or an officer, employee or agent of the person acting within the scope of employment or agency of that officer, employee or agent, identified under subsection B, paragraph 1, 2, or 3 when performing authorized activities without malice, fraudulent intent or bad faith is not subject to civil liability for libel, slander or another relevant tort. No civil cause of action may be brought against the person or entity.
- D. A person or entity under subsection B or C is entitled to an award of attorney fees and costs if the person or entity is a prevailing party in a civil cause of action for libel, slander or other relevant tort and the action is not substantially justified. For purposes of this subsection, "substantially justified" means a proceeding that has a reasonable basis in law or fact at the time that it is initiated.
- E. Nothing in this section limits any common law right of the person or entity.
- F. Nothing in this section is intended to prohibit contact or communication with clients or patients for any lawful purpose, including communication by and between insurers, the insurers' policyholders and claimants under policies issued to the insurers' policyholders regarding the investigation or settlement of any claim.
- G. For the purposes of this section:
 - 1. "Runner," "Capper" or "Steerer" means a person who procures clients at the direction of, or in cooperation with a person who intends to perform or obtain services or benefits under a contract of insurance who intends to assert a claim against an insured.
 - 2. "Statement" includes any notice, proof of injury, bill for services, payment for services, hospital or doctor records, X-rays test reports, medical or legal expenses, or other evidence of loss or injury, or other expense or payment.

20-466. Fraud unit; power; duty of insurers.

- A. A fraud unit is established in the department of insurance.

B. The fraud unit shall work in conjunction with the department of public safety.

C. The director may investigate any act or practice of fraud prohibited by section 20-466.01 and any other act or practice of fraud against an insurer or entity licensed under this title. The director shall administer the fraud unit.

D. The director may request the submission of papers, documents, reports or other evidence relative to an investigation under this section. The director may issue subpoenas and take other actions pursuant to section 20-160. The materials are privileged and confidential until the director completes the investigation. The materials are not subject to discovery or subpoena until opened for public inspection by the fraud unit unless the director consents or, after notice and a hearing, a court determines that the director would not be unduly burdened by compliance with the subpoena.

E. If materials the director seeks to obtain by request are located outside this state, the person requested to provide the materials shall arrange for the fraud unit or a representative, including an official of the state in which the materials are located, to examine the materials where the materials are located. The director may respond to similar requests from other states.

F. An insurer that believes a fraudulent claim has been or is being made shall send to the director, on a form prescribed by the director, information relative to the claim including the identity of parties claiming loss or damage as a result of an accident and any other information the fraud unit may require. The director shall review the report and determine if further investigation is necessary, the director may conduct an independent investigation to determine if fraud, deceit or intentional misrepresentation in the submission of the claim exists. If the director is satisfied that fraud, deceit or intentional misrepresentation of any kind has been committed in the submission of a claim, the director may report the violations of the law to the reporting insurer, to the appropriate licensing agency as defined in Section 20-466.04 and to the appropriate county attorney or the attorney general for prosecution.

G. Beginning on July 1, 1997, the director shall annually assess each insurer, as defined in section 20-441, subsection B authorized to transact business in this state up to seven hundred dollars for the administration and operation of the fraud unit and the prosecution of fraud pursuant to this section. Monies collected shall be deposited in the state general fund. The director shall annually revise the fee in such a manner that the revenue derived from the fees equals at least ninety-five percent but not more than one hundred ten percent of the appropriated budget of the fraud unit for the prior fiscal year.

H. A person, or an officer, employee or agent of the person acting within the scope of employment or agency of that officer, employee or agent, who in good faith files a report or provides other information to the fraud unit pursuant to this section is not subject to civil or criminal liability for reporting that information to the fraud unit.

20-466.01 Fraud; classification

A person who violates section 20-463 with the intent to injure, defraud or deceive an insurer is guilty of a class 6 felony.

20-466.02. Injunction; restitution; civil penalties; costs

A. On request by the director, the attorney general may seek and obtain in an action in the superior court an injunction that prohibits a person from engaging in

practices or doing any acts that violate section 20-463 or 23-1028. The court may enter any order or judgment that is necessary to:

1. Prevent any act or practice that is unlawful under section 20-463 and 20-1028.

2. Return any monies, interest or real or personal property that was acquired by an act or practice that is unlawful under section 20-463 or 20-1028.

B. An order of restitution may also include expenses incurred and paid by an insurer in connection with any medical evaluation or treatment services.

C. If the court finds that a person has violated section 20-463 or 23-1028, the attorney general on petition or complaint to the court may recover from that person on behalf of the state a civil penalty of not more than five thousand dollars for each violation.

D. In any action pursuant to this section, the court may award the attorney general costs including reasonable attorney fees and investigative costs for the services rendered.

20-466.03. Notice of penalty for false or fraudulent claims; claim forms.

The forms provided by an insurer to an insured or any other person for filing a notice or making a claim in connection with a policy or contract issued by the insurer shall include in substance the following statement in at least twelve point type:

“For your protection Arizona law requires the following statement to appear on this form. Any person who knowingly presents a false or fraudulent claim for payment of a loss is subject to criminal and civil penalties.”

20-466.04. Referrals to other licensing agencies; definition.

A. The director shall forward to the appropriate licensing agency the name of any person who is convicted of, enjoined from or penalized for violating section 20-463 or 20-1028. The director shall include any information the director believes is material to the case.

B. A person whose name is forwarded pursuant to subsection A of this section has no cause of action against the director and the department’s employees and agents pursuant to any administrative appeal or judicial review.

C. For the purposes of this section, “licensing agency” means any state board, commission, department or agency that issues any occupational or professional license, permit or registration and the state bar of Arizona.

Sec. 6. Section 23-1028

23-1028 False statements or representations to obtain compensation; forfeiture; classification; definition.

A. If in order to obtain any compensation, benefit or payment under the provisions of this chapter, either for himself or for another, any person knowingly makes a false statement or representation, such person is guilty of a class 6 felony, and, if the person is a claimant for compensation, benefit or payment, he shall in addition forfeit all right to such compensation, benefit or payment after conviction of the offense.

B. Notwithstanding section 13-801, a sentence to pay a fine for a violation of this section by a claimant or co-employee shall be a sentence to pay a amount fixed by the court of not more than fifty thousand dollars.

C. Any person who commits a violation under this section is also subject to the penalties prescribed in sections 20-466.02 and 20-466.04.

D. For the purposes of this section, "statement" includes any notice, proof of injury, bill for services, payment for services, hospital or doctor records, X-rays, test reports, medical or legal expenses, or other evidence of loss or injury, or other expense or payment.

Sec. 7. Appropriation.

In addition to any other appropriation provided by law, for fiscal years 1997--19983 and 1998-1999, the department of insurance is appropriated the amount of the increased assessment provided in section 20-466, Arizona Revised Statutes, as amended by this act, or \$320,000, whichever is less, for the purposes provided in this act. In fiscal years 1997-1998 and 1998-1999, at least one hundred twenty thousand dollars per year shall be used only for the prosecution of fraud pursuant to this section.

Sec. 8. Requirements for enactment

Pursuant to article IX, section 22, Constitution of Arizona, this act is effective only on the affirmative vote of at least two-thirds of the members of each house of the legislature and is effective immediately on the signature of the governor or, if the governor vetoes this act, on the subsequent affirmative vote of at least three-fourths of the members of each house of the Legislature.